

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MICHAEL PARKS, )  
 )  
Plaintiff, )  
 )  
v. ) 1:22-cv-934  
 )  
BUNN CORRECTIONAL and )  
WHITEVILLE CORRECTIONAL, )  
 )  
Defendant(s) . )

**ORDER**

This matter is before this court for review of the Recommendation filed on November 14, 2022, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 2.) In the Recommendation, the Magistrate Judge recommends that this action be dismissed sua sponte without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms and in the proper district. The Recommendation was served on the parties to this action on November 14, 2022, (Doc. 3). Plaintiff filed a document which has been construed as objections, (Doc. 4), to the Recommendation. Plaintiff also filed a motion for appointment of counsel. (Doc. 5.)

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is

made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation. In light of adopting the Recommendation and dismissing this action without prejudice, Plaintiff's motion for appointment of counsel will be denied as moot.

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Recommendation, (Doc. 2), is **ADOPTED. IT IS FURTHER ORDERED** that this action be filed and dismissed sua sponte without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms and in the proper district, correcting the defects set out in the Order and Recommendation.

**IT IS FURTHER ORDERED** that Plaintiff's motion for appointment of counsel, (Doc. 5), is **DENIED AS MOOT.**

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 8th day of February, 2023.

  
United States District Judge